

CENTER FOR DISABILITY ACCESS
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Chris Langer,

Plaintiff,

v.

**Shamoun Jamra;
Ramona Farms Market, Inc,** a
California Corporation; and Does 1-
10,

Defendants.

Case No. **'14CV2289 GPC BLM**

**Complaint For Damages And
Injunctive Relief For Violations
Of: American's With Disabilities
Act; Unruh Civil Rights Act;
California Disabled Persons Act;
Negligence**

Plaintiff Chris Langer complains of Defendants Shamoun Jamra;
Ramona Farms Market, Inc, a California Corporation; and Does 1-10
("Defendants") and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. He is a paraplegic who cannot walk and who uses a wheelchair for mobility. He has a specially equipped van with a ramp that deploys out of the passenger side of his van and he has a Disabled Person Parking Placard issued to him by the

1 State of California.

2 2. Defendants are, or were at the time of the incidents, the real property
3 owners, business operators, lessors and/or lessees for the Ramona Market
4 (“Market”) located at or about 838 Main Street, Ramona, California.

5 3. Plaintiff does not know the true names of Defendants, their business
6 capacities, their ownership connection to the property and business, or their
7 relative responsibilities in causing the access violations herein complained
8 of, and alleges a joint venture and common enterprise by all such
9 Defendants. Plaintiff is informed and believes that each of the Defendants
10 herein, including Does 1 through 10, inclusive, is responsible in some
11 capacity for the events herein alleged, or is a necessary party for obtaining
12 appropriate relief. Plaintiff will seek leave to amend when the true names,
13 capacities, connections, and responsibilities of the Defendants and Does 1
14 through 10, inclusive, are ascertained.

15
16 **JURISDICTION & VENUE:**

17 4. This Court has subject matter jurisdiction over this action pursuant to
18 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans
19 with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

20 5. Pursuant to pendant jurisdiction, an attendant and related cause of
21 action, arising from the same nucleus of operative facts and arising out of
22 the same transactions, is also brought under California’s Unruh Civil Rights
23 Act, and the California Disabled Persons Act, which acts expressly
24 incorporate the Americans with Disabilities Act.

25 6. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is
26 founded on the fact that the real property which is the subject of this action
27 is located in this district and that Plaintiff’s cause of action arose in this
28 district.

FACTUAL ALLEGATIONS:

7. The Plaintiff went to the Market in June of 2014, to shop.

8. The Market is a facility open to the public, a place of public accommodation, and a business establishment.

9. Parking spaces are one of the facilities, privileges and advantages offered by defendants to their customers at the Market.

10. Unfortunately, although parking spaces are one of the facilities available to patrons of the Market, there are no compliant van-accessible parking spaces available. There is only a handicap parking space that accommodates smaller cars. In fact, the access aisle is not even 60 inches in width, which is the minimum for smaller cars. Thus, even if plaintiff drove a smaller car (which he does not), the access aisle is not compliant.

11. Plaintiff alleges, on information and belief, that a van-accessible parking space, with the 8-foot access aisle, once existed at the Market.

12. Defendants have no policy or procedure in place to make sure that the accessible parking spaces remain useable in the parking lot. As such, the accessible parking space reserved for vans is no longer available for disabled customers. The parking space has been allowed to fade or been allowed to be paved over or has been removed from reserved status entirely.

13. Because there was no accessible van parking on the day of plaintiff's visit, plaintiff left without going in to the Market.

14. The plaintiff personally encountered this problem. This inaccessible condition denied the plaintiff full and equal access and caused him difficulty and frustration.

15. Plaintiff would like to return and patronize the Market but will be deterred from visiting until the defendants cure the violation. Plaintiff lives in the county and visits this area of Ramona often. Additionally, plaintiff visits his parents, who live in Borrego Springs, so plaintiff often travels

1 through Ramona. Plaintiff would like to return and patronize the Market. On
2 the day of plaintiff's visit, plaintiff ended up shopping at another store that
3 was less than a mile away.

4 16. The defendants have failed to maintain in working and useable
5 condition those features required to provide ready access to persons with
6 disabilities.

7 17. Given the obvious and blatant violations, the plaintiff alleges, on
8 information and belief, that there are other violations and barriers on the site
9 that relate to his disability. Plaintiff will amend the complaint, to provide
10 proper notice regarding the scope of this lawsuit, once he conducts a site
11 inspection. However, please be on notice that the plaintiff seeks to have all
12 barriers related to his disability remedied. See *Doran v. 7-11*, 506 F.3d 1191
13 (9th Cir. 2007) (holding that once a plaintiff encounters one barrier at a site,
14 he can sue to have all barriers that relate to his disability removed regardless
15 of whether he personally encountered them).

16 18. Additionally, on information and belief, the plaintiff alleges that the
17 failure to remove these barriers was intentional because: (1) these particular
18 barriers are intuitive and obvious; (2) the defendants exercised control and
19 dominion over the conditions at this location and, therefore, the lack of
20 accessible facilities was not an "accident" because had the defendants
21 intended any other configuration, they had the means and ability to make the
22 change.

23
24 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**
25 **WITH DISABILITIES ACT OF 1990** (On behalf of plaintiffs and against
26 all defendants (42 U.S.C. section 12101, et seq.)

27 19. Plaintiff repleads and incorporates by reference, as if fully set forth
28 again herein, the allegations contained in all prior paragraphs of this

1 complaint.

2 20. Under the ADA, it is an act of discrimination to fail to ensure that the
3 privileges, advantages, accommodations, facilities, goods and services of
4 any place of public accommodation is offered on a full and equal basis by
5 anyone who owns, leases, or operates a place of public accommodation. See
6 42 U.S.C. § 12182(a). Discrimination is defined, *inter alia*, as follows:

- 7 a. A failure to make reasonable modifications in policies, practices,
8 or procedures, when such modifications are necessary to afford
9 goods, services, facilities, privileges, advantages, or
10 accommodations to individuals with disabilities, unless the
11 accommodation would work a fundamental alteration of those
12 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 13 b. A failure to remove architectural barriers where such removal is
14 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are
15 defined by reference to the ADAAG, found at 28 C.F.R., Part
16 36, Appendix “D.”
- 17 c. A failure to make alterations in such a manner that, to the
18 maximum extent feasible, the altered portions of the facility are
19 readily accessible to and usable by individuals with disabilities,
20 including individuals who use wheelchairs or to ensure that, to
21 the maximum extent feasible, the path of travel to the altered
22 area and the bathrooms, telephones, and drinking fountains
23 serving the altered area, are readily accessible to and usable by
24 individuals with disabilities. 42 U.S.C. § 12183(a)(2).

25 21. Any business that provides parking spaces must provide handicap
26 parking spaces. 1991 Standards § 4.1.2(5); 2010 Standards § 208. One in
27 every eight of those handicap parking spaces but not less than one must be a
28 “van” accessible parking space, *i.e.*, having an eight foot access aisle. 1991

Standards § 4.1.2(5)(b). Under the 2010 Standards, one in every six accessible parking spaces must be van accessible. 2010 Standards § 208.2.4.

22. Here, there is no compliant van-accessible parking space. This is a violation of the law.

23. The defendants have no policy or procedure to make sure that its parking spaces remain useable by disabled persons.

24. A public accommodation must maintain in operable working condition those features of its facilities and equipment that are required to be readily accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

25. Here, the failure to ensure that the accessible parking was available and ready to be used by the plaintiff is a violation of the law.

II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL RIGHTS ACT (On behalf of plaintiffs and against all defendants) (Cal Civ § 51-53)

26. Plaintiff repleads and incorporates by reference, as if fully set forth again herein, the allegations contained in all prior paragraphs of this complaint.

27. Because the defendants violated the plaintiffs' rights under the ADA, they also violated the Unruh Civil Rights Act and are liable for damages. (Civ. Code § 51(f), 52(a).)

28. Because the violation of the Unruh Civil Rights Act resulted in difficulty, discomfort or embarrassment for the plaintiffs, the defendants are also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-(c).)

1 **III. THIRD CAUSE OF ACTION: VIOLATION OF THE**
2 **CALIFORNIA DISABLED PERSONS ACT** (On behalf of plaintiffs and
3 against all defendants) (Cal Civ. § 54-54.8)

4 29. Plaintiff repleads and incorporates by reference, as if fully set forth
5 again herein, the allegations contained in all prior paragraphs of this
6 complaint.

7 30. Because the defendants violated the plaintiff's rights under the ADA,
8 they also violated the Disabled Persons Act and are liable for damages. (Civ.
9 Code § 54.1(d), 54.3(a).)

10 31. Because the violation of the Disabled Persons Act resulted in
11 difficulty, discomfort or embarrassment for the plaintiffs, the defendants are
12 also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code §
13 55.56(a)-(c).)

14
15 **IV. FOURTH CAUSE OF ACTION: NEGLIGENCE** (On behalf of
16 plaintiff and against all defendants)

17 32. Plaintiff repleads and incorporates by reference, as if fully set forth
18 again herein, the allegations contained in all prior paragraphs of this
19 complaint.

20 33. The Defendants had a general duty and a duty arising under the
21 Americans with Disabilities Act and the Unruh Civil Rights Act and
22 California Disabled Persons Act to provide safe, convenient, and accessible
23 facilities to the plaintiffs. Their breach of this duty, as alleged in the
24 preceding paragraphs, has caused injury and damage as alleged above.

PRAYER:

Wherefore, Plaintiff prays that this court award damages and provide relief as follows:

1. For injunctive relief, compelling defendants to comply with the Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the Plaintiffs are not invoking section 55 of the California Civil Code and is not seeking injunctive relief under the Disabled Persons Act at all.

2. Damages under the Unruh Civil Rights Act and/or the California Disabled Persons Act which damages provide for actual damages and a statutory minimum of \$4,000. Note: a plaintiff cannot recover under both acts, simultaneously, and an election will be made prior to or at trial.

3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant to 42 U.S.C. § 12205; Cal. Civ. Code §§ 52 and 54.3.

Dated: August 20, 2014

CENTER FOR DISABILITY ACCESS

By: 

Mark Potter, Esq.
Attorneys for Plaintiff